

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., DONALD E. CARROLL COMMISSION CHAMBERS
July 25, 2023**

**SUSAN PAYNE, MAYOR
SHARON McDONALD, COMMISSIONER
JOSH RARDIN, COMMISSIONER
STEPHEN BURNETT, COMMISSIONER
NICHOLAS PAUL, COMMISSIONER**

**DUSTY WRIGHT, MAYOR PRO-TEM
KARL MELTON, COMMISSIONER
STEPHANIE HERNANDEZ, ACTING CITY MANAGER
ASHLEY SMITH, CITY ATTORNEY
RACHEL HUGHS, CITY CLERK**

CALL TO ORDER / ROLL CALL / INVOCATION / PLEDGE OF ALLEGIANCE

Mayor Payne called the meeting to order at 6:31 p.m. Roll Call was taken by the City Clerk. City Clerk Hughs announced there was a quorum present. Invocation was given by Pastor Justin Crispin, and the Pledge of Allegiance was led by Commissioner Burnett.

APPROVAL OF AGENDA

Mayor Pro-Tem Wright moved to approve the agenda.
Commissioner Burnett seconded the motion.
Motion carried with a vote of 7-0-0.

PRESENTATIONS

1. Swearing in Police Officers, Christopher Redden and Justin Gillespie. (David Overstreet, Municipal Judge)

Judge Overstreet administered the Oath to Officers Christopher Redden and Justin Gillespie.

2. White Sands Balloon Invitational presentation. (Ed Brabson)

Mr. Brabson and Dave Chelgren gave their presentation and requested funding support of \$20,000 in multi-year funding, potentially \$15,000 this year and another \$5000 next year. Mr. Chelgren said that amount would allow them to build back their sponsor base after COVID.

Commissioner McDonald said it was windy last year. Is there any plan to do anything different if the wind is blowing? Mr. Chelgren said the wind is always a problem with balloons. The ballooning community, crew, and sponsors know that it is weather dependent. We try our best. We tell people instead of hurting you, we would rather disappoint you. Sometimes the weather is such that it is not safe to launch balloons. We make every effort to launch. We picked the third week in September because it is towards the end of the monsoon season and our weather is typically better. He said he does a detailed safety briefing before the morning launches and the glow at night. Last year we did what is called a candlestick. We will make every effort to fly, but weather is a determining factor. We do not have anything planned beyond that point, but we will make every effort to either put the balloons up for the glow or fly them in the morning.

Commissioner Paul asked for clarity regarding the funding this year. The slide shows \$20,000, but you mentioned \$15,000 and then \$5,000. Mr. Chelgren said they talked to the Acting City Manager, and that older slide said, "carryover money". Carryover money is a military term. Most military organizations have annual funding, and at the end of the fiscal year, your budget drops to zero, and you must start all over again. More and more tests have become multi-year funding. We have funds that do not drop

dead at the end of the fiscal year and carry over. So, we were initially interested in \$20,000 that we would use to carry over into next year's program. In the meeting with the Acting City Manager, we discussed using \$15,000 to get started and request the other \$5,000 next year.

Acting City Manager Hernandez said this should have been an action item, but with the events of last week, the contract was not ready. You will see the contract on Friday, and everything will be lined out. We are doing a two-year contract. She said she initially spoke with Mr. Brabson, and they did not have the money to do it with the current situation. Either they do not do it, or they get help from the City. This is a major tourism draw, so we are partnering as a tourism event. The contract is written as such; it will be up to \$15,000 once the invoice is presented. In year two, any remaining up to \$20,000. So, for two years, it is not \$20,000 a year but \$20,000 total. Commissioner Paul asked Mr. Chelgren if they would have the sponsorships back by that point and be good to go. Mr. Chelgren said yes sir. Mr. Brabson said that is exactly right. Once we rebuild that, we will be self-sufficient.

Commissioner Burnett asked if they planned on having vendors other than balloons. Mr. Chelgren said yes, they would contract vendors. They get a list from the Center of Commerce that shows the food vendors and non-food vendors, and we would call them. He said he talked to one of the vendors and that the vendor wanted to know how many other food vendors they had because if there were too many out there, the vendor would not make any money. We are going to pick and choose to have a good variety. We have some that we have used in the past, and we expect to have both food and non-food vendors. Commissioner Burnett said he was a vendor at two of the previous events, but he just wanted to know if that was what they were doing.

Mayor Payne said this is not an action item, but it sounds like we will bring this back on Friday. Acting City Manager Hernandez said yes ma'am.

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT

Acting City Manager Hernandez made the following remarks:

1. She asked City Attorney Smith to speak on the indictment that came in today. City Attorney Smith said an email went out earlier from Acting City Manager Hernandez. As you all are aware, there was a grand jury indictment. An arraignment has been set for July 31st in that case, and a detention hearing has also been set. She said she could answer the Commission's questions, but her responses were limited to certain information because she did not want to divulge too much and jeopardize the case.

Commissioner Rardin said in the email sent earlier today you all said it was anywhere from twelve years to life. Is the death penalty on the table? City Attorney Smith said that New Mexico no longer has the death penalty. The first-degree count is a capital offense that carries a maximum sentence of life incarceration.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Mayor Payne made the following comments:

She said our City faced a huge tragedy and thanked Chief Kunihiro for handling it well. She also thanked Operations Lieutenant Glidden for his leadership and the Police Department for stepping up. She lastly thanked Acting City Manager Hernandez, City Attorney Smith, and Finance Director Huff

for the amazing job they did under extraordinary pressure. She said she was honored to serve alongside them.

She said she will meet with Senator Bert later this week and will meet Scott Key along with City Attorney Smith tomorrow morning. We had a press conference where we talked about bail reform laws, and she would not let that go. We must do something different, something better, and make it easier for our officers to do their jobs.

Commissioner McDonald made the following comments:

She said she also wanted to thank City staff for their work and was proud of them.

She thanked Public Works, Code Enforcement, and Parks and Recreation for their help on July 15th on the cleanup in District Five. We did seventeen yards and had thirty-eight volunteers.

CONSENT AGENDA

3. Approve the minutes for the July 11, 2023, Regular Commission meeting. (Rachel Hughes, City Clerk)

4. Consider, and act upon, acceptance of a grant agreement from the New Mexico Department of Finance, in the amount of \$75,000, for housing and shelter programs in Alamogordo. (Debbie Osborne, Grant Coordinator)

5. Consider, and act upon, acceptance of a grant agreement from the New Mexico Department of Finance, in the amount of \$100,000, to purchase and equip vehicles for Alamogordo Police Department. (Debbie Osborne, Grant Coordinator)

6. Consider, and act upon, acceptance of a grant agreement from the New Mexico Department of Finance, in the amount of \$100,000, for equipment for the parks and recreation department in Alamogordo. (Debbie Osborne, Grant Coordinator)

Mayor Payne pulled Item 4 and said it would be brought back at a later date.

Commissioner McDonald moved to approve the Consent Agenda as amended.

Mayor Pro-Tem Wright seconded the motion.

Roll Call Vote was taken.

Motion carried with a vote of 7-0-0.

UNFINISHED BUSINESS

7. Consider, and act upon, Resolution 2023-25, declaring 1703 Dewey Lane to be so ruined, damaged, and dilapidated that it is a menace to the public comfort, health, peace, or safety and ordering its abatement. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

Mayor Payne said the owner's son-in-law was supposed to bring back some information, but she did not see him here tonight. Code Enforcement Manager Sides said they have not been able to have any contact with him.

Commissioner Rardin asked if we knew where the homeowner was at. Code Enforcement Manager Sides said no. Commissioner Rardin asked if we had any contact with him. Code Enforcement Manager Sides said no.

Commissioner Melton moved to approve.
Commissioner McDonald seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 7-0-0.

NEW BUSINESS

8. Consider, and act upon, first publication of Ordinance 1678 to amend sections of the City Charter to coincide with State Statutes and the New Mexico Election Code. (Rachel Hughs, City Clerk) (Roll Call Vote Required)

City Clerk Hughs said she is bringing Ordinance 1678 back for approval for first publication to add an amendment to the ordinance. Our current City Charter under Article VI, Elections, Section 3 Vacancies B. states, "The commissioner or mayor appointed or elected shall serve for the remainder of the unexpired term for which the commissioner or mayor who vacated the position was elected." That is no longer consistent with the State statute. In 3-14-9, "The appointment is to fill the vacancy until the next regular local election, at which time a qualified elector shall be elected to fill the remaining unexpired term, if any." The rest of the ordinance that had come back for adoption on July 11th is the same except for this addition.

Mayor Payne said that even if that seat is not up for reelection yet, if it is vacated and somebody fills it, they only fill it until the next regular election. City Clerk Hughs said that is correct. Mayor Payne said if they fill it to the next regular election and there are still technically two more years on it, do they just serve two more years, or does that change the cycle? City Clerk Hughs said no, if they get elected, it is going to be for the remainder of the unexpired term, not for the full four years.

Commissioner Rardin said that sounds a little confusing. Say you get elected, and a year later, you resign, we appoint somebody for a year, and then we will have a special election called in conjunction with a regular election? Mayor Payne said yes, to serve two more years. City Clerk Hughs said we no longer have special elections to appoint someone; it is now just in the election itself. Commissioner Rardin said it would be, but since that would be an off year for that seat, it would technically be a special election called for that seat in conjunction with the regular election, correct? City Clerk Hughs said no, we no longer have conjunction with; it is just together. Commissioner Rardin said so they just call it all? City Clerk Hughs said yes.

Commissioner Burnett moved to approve.
Mayor Pro-Tem Wright seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 7-0-0.

9. Consider, and act upon, Resolution 2023-30, declaring 313 New York Avenue to be so ruined, damaged, and dilapidated that it is a menace to the public comfort, health, peace, or safety and ordering its abatement. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

Code Enforcement Manager Sides gave his presentation and recommended approving and ordering the property's abatement.

Mayor Payne asked if we had heard from the owner. Code Enforcement Manager Sides said no. She said but we knew they got it because they signed for it. He said yes. She asked if we knew if the owner lived here. He said no, the owner lives in Las Cruces.

Commissioner Melton asked if we knew the cause of the fire. Code Enforcement Manager Sides said he got a report from the Fire Department but did not recall the cause.

Mayor Pro-Tem Wright asked how close that structure was to 311. Code Enforcement Manager Sides said they may as well be on one property; it looks like that from the street. 311 will be coming up.

Mayor Payne asked if this had ever come before them previously. Code Enforcement Manager Sides said not that he could find. Mayor Payne said it feels like it has. Commissioner McDonald said we were at the property last year, at 311 and viewing 313. You want to tear down 313; will you bring 311 back? Code Enforcement Manager Sides said he had both on one agenda, but we had to do some shuffling so only 313 came before you today. Commissioner McDonald asked if he was going to do both at the same time. Code Enforcement Manager Sides said if funding allows, yes. Mayor Payne asked if the same owner owned both properties. Code Enforcement Manager Sides said yes. Commissioner McDonald said she remembered the wall on the south side of 311 was almost out. Code Enforcement Manager Sides said that one has lots of problems and holes.

Commissioner Rardin asked if we had an estimate of the cost to tear this down. Code Enforcement Manager Sides said he did not. Commissioner Rardin asked if we were doing this in-house with City staff. Code Enforcement Manager Sides said the decision for how we tear this down was above him. Acting City Manager Hernandez said we have done both, but something like this would probably be better to do in-house. Commissioner Rardin said we used to do that to save money. Our problem is that this lot is worth \$1,500 once cleaned up if we are lucky. So, we go and pay a contractor \$30,000 to clean it, and we make \$1,500 back. This one would be easy for city staff to do.

Commissioner McDonald moved to approve.

Commissioner Melton seconded the motion.

Roll Call Vote was taken.

Motion carried with a vote of 7-0-0.

10. Consider, and act upon, Case SP-2023-0004(A), property owners Douglas A. & Carla C. Kerr are requesting to be granted a special permit to allow family members to reside in an RV on their property at 3102 Thunder Road. (Sean McGranaghan, Assistant City Planner)

Assistant City Planner McGranaghan gave his presentation and recommended denial of the special permit request. He said they received one letter of opposition from the neighbor at 3109 Thunder Road.

Mayor Payne asked if we knew why the neighbor sent the letter of opposition. Assistant City Planner McGranaghan said they said it set a precedent of having people live in RVs in single-family districts, and it would lower their property value.

Commissioner Rardin asked if the RV would be put in the backyard. Assistant City Planner McGranaghan said yes. Commissioner Rardin asked if there was a time limit for how long the RV would be there. Assistant City Planner McGranaghan said with the way the ordinance is written, he believed it is a one-year limit, but he did not know this specific timeline. Commissioner Rardin asked if they were here tonight. Assistant City Planner McGranaghan said they were. If you were to approve this, it would be up to one year.

Commissioner Melton asked if we have ever granted this to any other applicants. Assistant City Planner McGranaghan said not since he has been here.

Mayor Payne asked if you could see it from the road. Assistant City Planner McGranaghan said he did not believe so. City Planner Rael said you could not see it from the road. Mayor Payne said so the only way you would know it was in the backyard was if you knew it was there. City Planner Rael said if the neighbor complained, or if Code Enforcement was out. Mayor Payne said she knew of someone with an RV parked in their backyard nearby, so what is the difference other than living in it? City Planner Rael said that was correct; you can store your RV within your property, but living in it is different. Are they running electricity from the main home, is their sewer water just soaking into the ground? Per ordinance, you cannot live within an RV unless it is within a zoning designation for RVs. Commissioner Burnett asked if we knew if they put in a 30-amp or 50-amp service. City Planner Rael said she did not know, but the property owners that can answer those questions are here. She wanted to clarify one more thing that was not mentioned. Per ordinance, the Commission has the right to decide to issue a permit for a year, but then the requestor can come back for one renewal for an additional year.

Mr. Douglas Kerr introduced himself, his wife Carla Kerr, and her son Larry Henry. He said that Mr. Henry's wife could not be here tonight, but the four of them live at 3102 Thunder Road. He said that he would not say all the medical issues but suffice to say that he and his wife were not at one hundred percent operating condition. In the middle of last year, they concluded that because of their limitations, they would have to get some kind of assistance to continue their lifestyle, but it was not clear what that would be or how it would happen. Larry Henry retired from the US Army in 2015 after twenty-six years of service, and we were dealing with this dilemma at about the same time. The answer that was agreed upon was that they would go to Alamogordo and move in with us; that way, they could help us function in a safe way, and we could provide intellectual context to improve their life. However, there was a problem. Our house did not have an available bedroom. It had two small bedrooms when we moved in back in 2012, but those were repurposed as offices. He said he does technical research and articles, and Carla is an author, playwright, poet, and paints acrylics. We decided the direct way to solve this problem was to acquire a quite new, modest-sized travel trailer and had it delivered into the backyard. We connected it up as provided by the code with temporary flexible connections, and yes, we put in a 30-amp service for it. It has a typical RV connector and box for it in the backyard. Larry and his wife use that as their bedroom. Having them live with us is a godsend and has made it possible for us to have a safe life and continue to function. Carla has returned to painting and social activities, having them with us has been wonderful. It was called to our attention recently that the code statutes do not allow this kind of usage of a travel trailer on an extended basis without the benefit of a permit that the Commission can grant. Insofar as the effect on the neighborhood, they do not make any noise, and the trailer is kept spotless and clean, and the backyard around it looks better than it ever did before because Mr. Henry is a good groundskeeper. We do not know of any reason why it should be of any difficulty to the neighbors, as it is not an inconvenience or unsightly. If you approve this permit, we will be able to continue our way of life here in the city we love. If not, he is unsure what they are going to do. He said there was some discussion on the sewer before, and no it does not go out on the ground. We pump the black tank out into a sewer drain around every ten days. There is no permanent connection to a sewer, and we certainly do not let it drain out onto the ground.

Commissioner Burnett asked about the electrical service line. Mr. Kerr said it runs off a 30-amp breaker in our service box, a circuit dedicated to this, and it goes to a standard RV. RVs plug into a type of 30-amp connector that is not used any place else. That is installed and within reach of the trailer. We have the conventional umbilical cord that comes with a trailer long enough to reach that receptacle and plugs into that. It has its own breaker in the service panel. Commissioner Burnett asked if there was an extension to the service line. Mr. Kerr said no, there are no extension cords. The connection of the trailer is flexible but not an extension cord. The water is the same, the water line runs from the back of the house and goes into what is called the city water connection on the trailer.

Commissioner Melton asked City Planner McGranaghan if they approved this, and if there are sanitation or safety issues, or if the neighbors bring something to their attention, can we rescind the permit? City Planner McGranaghan said he did not believe they could. City Planner Rael said that would be a legal question. City Attorney Smith said yes, if it is a health and sanitation issue, we are allowed to withdraw. We consider those a kind of emergency, and we can instantly withdraw it.

Commissioner Burnett asked Mr. Kerr if the sewer cleanouts were in the front or rear of the house. Mr. Kerr said to be more specific, we drain it into a toilet through the bathroom window. We have a macerator pump which makes sure that it is completely liquid. It runs through a special hose dedicated to this purpose with a valve on the end. He said it is perfectly sanitary, there is no spillage or anything. Mr. Kerr said the trailer is very safe. It has smoke detectors, carbon monoxide detectors, and a propane detector. It is very modern, only a few years from manufacture, and it is safe to sleep there at night.

Mayor Pro-Tem Wright moved to approve.
Commissioner Rardin seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 7-0-0.

EXECUTIVE SESSION

11. Adjourn into Executive Closed Session in compliance with 10-15-1(H)(2) NMSA (as amended) to discuss: Limited Personnel Matters (City Manager). (Roll Call Vote Required)

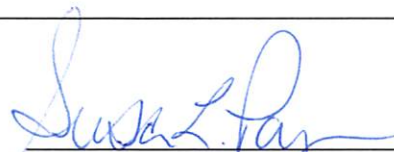
Mayor Pro-Tem Wright moved to adjourn at 7:23 p.m.
Commissioner McDonald seconded the motion.
Motion carried with a vote of 7-0-0.

ADJOURNMENT

ATTEST:



City Clerk Rachel Hughs



Mayor Susan L. Payne

(Prepared by Dylan Aleshire, Deputy City Clerk)
Approved at the Regular Meeting held on August 8, 2023.